

**DEPARTMENT OF STATE REVENUE**

29970407.LOF

LETTER OF FINDINGS NUMBER: 97-0407 CG  
CIVIL PENALTIES VIOLATIONS ISSUED AUGUST 20, 1997  
ADJUSTED GROSS AND SUPPLEMENTAL NET INCOME TAX  
FOR THE PERIOD AUGUST 1, 1996 THROUGH AUGUST 18, 1997

**NOTICE:** Under IC 422-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUES**

**I. Games Of Chance - License Requirement**

**Authority:** IC 4-32-6-2; IC 4-32-9-2

The taxpayer conceded this issue in hearing.

**II. Games Of Chance - Financial Records And Reports; Deposit Of Funds; Payment Of Expenses**

**Authority:** IC 4-32-9-17

The taxpayer conceded this issue in hearing.

**III. Games Of Chance - Remuneration Of Operators And Workers**

**Authority:** IC 4-32-9-25

The taxpayer conceded this issue in hearing.

**IV. Games Of Chance - Membership Of Workers In Qualified Organizations**

**Authority:** IC 4-32-9-29

The taxpayer conceded this issue in hearing.

**V. Charity Gaming - Income And Sales Tax**

**Authority:** 45 IAC 18-5-1

The taxpayer conceded this issue in hearing.

**STATEMENT OF FACTS**

The taxpayer has never been licensed with the Indiana Department of Revenue to conduct any games of chance. In the hearing, Mr. S CEO of the taxpayer admitted to the violations outlined in a letter from Steve Englert, Administrator of the Compliance Division of the Indiana Department of Revenue dated August 20, 1997. Mr. S did not admit to having the intent to violate the Charity Gaming Laws. Mr. S was also willing to pay the fines.

**I. Games Of Chance - License Requirement**

**DISCUSSION**

Indiana Code § 4-32-9-2 states, "Except as provided in section 3 of this chapter, a qualified organization must obtain a license from the department to conduct an allowable event". The term allowable event under IC 4-32-6-2 includes raffles. The taxpayer held two (2) unauthorized raffle events. A Caribbean cruise raffle was held in the autumn of 1996, and the raffle of a house occurred on July 3, 1997. Neither raffle was licensed by the Indiana Department of Revenue.

**FINDING**

The taxpayer conceded this issue in hearing.

**II. Games Of Chance - Financial Records And Reports; Deposit Of Funds; Payment Of Expenses**

**DISCUSSION**

Indiana Code § 4-32-9-17 states, "...The department shall, by rule, require a qualified organization to deposit funds received from an allowable event in a separate and segregated account set up for that purpose..." The taxpayer deposited all charity gaming receipts in the general bank account. A separate account for the deposit of the charity gaming funds was not maintained.

**FINDING**

The taxpayer conceded this issue in hearing.

**III. Games Of Chance - Remuneration Of Operators And Workers**

**DISCUSSION**

Indiana Code § 4-32-9-25(a) provides:

Except as provided in subsection (b), an operator or worker may not receive remuneration for:

- (1) preparing for;
- (2) conducting;

- (3) assisting in conducting;
- (4) cleaning up after; or
- (5) taking any other action in connection with;

an allowable event.

Income from the sale of raffle tickets was used to pay Mr. S a salary. From the period March 3, 1997 to June 20, 1997, a salary totaling \$4,309.25 was paid to Mr. S. The checks were written by Mr. S from the taxpayer's checking account.

#### **FINDING**

The taxpayer conceded this issue in hearing.

#### **IV. Games Of Chance - Membership Of Workers In Qualified Organizations**

##### **DISCUSSION**

Pursuant to IC 432-9-29, " A worker must be a member in good standing of the qualified organization that is conducting the allowable event for at least thirty (30) days at the time of the allowable event. The taxpayer did not have members of the organization selling raffle tickets. Instead six (6) local banks sold the tickets for the organization.

#### **FINDING**

The taxpayer conceded this issue in hearing.

#### **V. Charity Gaming - Income And Sales Tax**

##### **DISCUSSION**

Pursuant to 45 IAC 18-5-1, if an organization conducts unauthorized charity gaming activities, the income will be considered unrelated income and subject to Indiana gross income tax, adjusted gross income tax, and supplemental net income tax. As the organization was not licensed for the period August 1, 1996 through August 18, 1997, the income from the sale of raffle tickets is unrelated and subject to gross income tax, adjusted gross income tax, and supplemental net income tax.

#### **FINDING**

The taxpayer conceded this issue in hearing.